

REMARKS

This Amendment is responsive to the Office Action mailed on June 16, 2004. Claims 1-6, 9-13, 17-20, and 24-25 are now pending in the application. Claims 1, 9, 15, 17, 22, and 25 have been amended. Claims 7, 8, 14-16, 21-23, and 26-27 have been cancelled. No new matter has been introduced as a result of these amendments.

The Examiner has rejected Claims 1-6 under 35 U.S.C. 102(e) as being anticipated by Orr (U.S. Patent No. 6,430,357).

The Examiner has rejected Claims 25 and 27 under 35 U.S.C. 102(b) as being anticipated by Rivers (U.S. Patent No. 5,615,301).

The Examiner has rejected Claims 7-24 under 35 U.S.C. 103(a) as being unpatentable over Orr (U.S. Patent No. 6,430,357).

The Examiner has rejected Claim 26 under 35 U.S.C. 103(a) as being unpatentable over Rivers (U.S. Patent No. 5,615,301) in view of Orr (U.S. Patent No. 6,430,357). These rejections are respectfully traversed.

Discussion of Prior Art

The Orr reference fails to teach or suggest each of Applicant's claimed elements. The Orr reference merely discloses a method and apparatus for text data extraction for interleaved video data streams and facilitation of navigation using parsed information. The interleaved video data stream may have, for example, text data packets, presentation time data, such as time stamp information and interleaved video data and audio data. Resulting extracted time coded text data is stored so that the presentation time data can be used to link the extracted text data back to the corresponding video data to facilitate, for example, annotation of a movie, text searching of closed caption text, printing transcripts of closed caption text, or controlling video playback such as the order in which scenes are played back (Orr at col. 2, lines 16-35). The text data extraction system 100 includes an interleave stream parser 104 that receives the interleaved video data stream and analyzes the interleaved stream and extracts text data 106, such as closed caption data

and also extracts presentation time data 108, such as time stamp information associated with the text data, to facilitate independent use of text data from the corresponding video data. The text data extraction system 100 also includes memory 110, such as a database or a series of databases, that store the extracted text data 106 and extracted presentation time data 108 so that the presentation time data can be used to link the extracted text data back to the corresponding video data (Orr at col. 2, lines 57-66). The Orr reference discloses that the interleave stream parser 104 preferably continues to parse an entire interleaved stream prior to allowing navigation to occur. This may be suitable to allow all of the closed caption text, for example, to be available to a user to allow navigation or annotating at any point within an entire movie. The text data is parsed and extracted and associated with the current time stamp (Orr at col. 3, lines 39-51). The selector with annotator serves as a navigation engine to selectively play video data based on extracted text data. Offensive language can be muted during playback (Orr at col. 4, lines 63-67 and col. 5, lines 1-2). The Orr reference also discloses that a language translator 402 may receive extracted text data 106 and time code data 108 and perform a language translation on the text and outputs the new language text to a controllable video stream playback system. A text to speech converter may convert the text data 106 into voice data to be output on an audio playback system by a text to speech converter 408 (Orr at col. 5, lines 24-36).

The Orr reference is silent with respect to processing the extracted closed caption data in a speech synthesizer to provide said words as speech in a desired language, wherein the closed caption data is representative of words in a language that is different from the desired language, and the processing step translates said words into the desired language, as set forth in Applicant's amended claim 1. The Orr reference also fails to disclose every claimed element as set forth in Applicant's amended claims 9, 17 and 25.

Applicant respectfully submits that the Orr reference does not teach or suggest each and every element of Applicant's invention as set forth in independent claims 1, 9, 17 and 25 as presented herein. Since the Orr reference fails to teach or suggest each and every claimed element, then there is no anticipation of Applicants invention as now claimed.

The Rivers reference fails to remedy the deficiencies of the Orr reference. The Rivers reference merely discloses an automated language translation system 1 (in dashed lines) including

speech recognition circuitry 3 connected to the audio output of an electronic device, such as a television set as shown, a radio, or any electronic reproduction device, such as a tape player, a disc player, or a reel-to-reel movie projector having a sound track. The system 1 receives the audio signal of a program presented to the user by the electronic device. The speech recognition circuitry 3 is capable of receiving continuous speech information and converting the speech into machine recognizable phonemes. In operation, as illustrated in the FIGURE, the speech synthesizer 3 receives the audio output of a television receiving a broadcast program so as to convert the continuous speech therein into phonemes recognized by the synthesizer 3. Phonemes represent the basic elements of speech, which make up words in spoken languages. These phonemes are output in consecutive order by the synthesizer 3 as they are recognized from the continuous speech of the television broadcast program (Rivers at col. 2, lines 21-43, and FIG. 1). The Rivers reference is silent with respect to processing the extracted closed caption data in a speech synthesizer to provide said words as speech in a desired language, wherein the closed caption data is representative of words in a language that is different from the desired language, and the processing step translates said words into the desired language, as set forth in Applicant's amended claim 1. The Rivers reference also fails to disclose every claimed element as set forth in Applicant's amended claims 9, 17 and 25.

Additionally, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. The Rivers reference merely teaches a system that receives an audio output from the audio speaker of a television, radio or other electronic device. The sound from the speaker of a television is broken down into recognizable phonemes in basic spoken language. Words are then formed into recognizable languages. In contrast, the Orr reference receives extracted text data and time code data to perform a language translation on the text. The system of Orr receives the text data and converts the text data to voice data. The Rivers reference teaches a different principle of operation than that of the Orr reference. To modify the Rivers reference to convert the language from text provided in a closed caption signal into closed caption text information instead of using a speech recognition device to convert the speaker output into text would change the principle of operation

of the Rivers reference, which is impermissible and contrary to established law. Therefore, the Orr reference cannot be combined with the Rivers reference to render obvious Applicant's claimed invention.

Moreover, regarding claims 9, 13, 17, and 20, the Examiner admits that Orr fails to specifically disclose the speech synthesizer is adapted to convert the words represented by the closed caption data into a second language. Orr does not disclose that the audio is muted when replacement speech is provided from the speech synthesizer. The Examiner substitutes specific evidentiary citations with Official Notice, stating "...that it is known in the art that closed caption data is textual data representative of words and to convert words into a second language," and "it is known in the art to mute one audio source when there are two audio sources associated with video available" and renders the claim language obvious. Applicant respectfully traverses such an assertion of Official Notice.

It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principle evidence upon which a rejection was based. The requirement for a determination of obviousness is that both the suggestion and the expectation of success must be founded in the prior art, not in applicant's disclosure. A determination of obviousness cannot be based on what the skilled person in the art might try or find obvious to try. Rather, the proper test requires determining what the prior art would have led the skilled person to do. In the present case, Applicant respectfully submits that the Examiner has not provided documentary evidence of his Official Notice and has oversimplified the subject matter of the Official Notice.

Since the Applicant has traversed the Examiner's rejection, it is respectfully requested that the Examiner provide an Affidavit or other evidence supporting the obviousness rejection, as required by MPEP 2144.03.

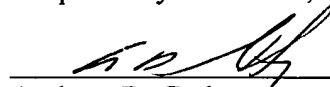
In view of the above, Applicant respectfully submits that the claimed invention is not anticipated by and would not have been obvious to one skilled in the art in view of the Orr reference, or any of the other prior art references of record, taken alone or in combination. Moreover, since independent claims 1, 9, 17, and 25 are not obvious, then the claims dependent thereon are believed to be allowable.

Further remarks regarding the asserted relationship between Applicant's claims and the prior art are not deemed necessary, in view of the foregoing discussion. Applicant's silence as to any of the Examiner's comments is not indicative of acquiescence to the stated grounds of rejection.

Conclusion

In view of the above, entry of the present amendment and reconsideration and allowance of each of the claims is respectfully requested. If there are any remaining issues that need to be addressed in order to place this application into condition for allowance, the Examiner is requested to telephone Applicant's undersigned attorney.

Respectfully submitted,



Andrew D. Gathy
Attorney for Applicant(s)
Registration No. 46,441
Law Office of Barry R. Lipsitz
755 Main Street
Monroe, CT 06468
(203) 459-0200

Attorney Docket No.: GIC-653

Date: September 7, 2004